

AUG 20 2013

TONY R. MOORE, CLERK
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE, LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

United States of America

Civil Action No. 08-00269

versus

Judge Richard T. Haik, Sr.

Land Cameron Parish, et al

Magistrate Judge C. Michael Hill

MEMORANDUM RULING

Before the Court is an unopposed¹ Motion For Partial Summary Judgment filed by the United States [Rec. Doc. 136]. A Complaint and Declaration of Taking have been filed in this condemnation case taking the fee simple title to the real property consisting of a total of 22.70 acres of land, more or less, situated in Cameron Parish, Louisiana, and designated as Tract No. 118, all as more particularly set forth therein. In his answer to the United States' complaint, Defendant Thomas Barr, IV asks that the just compensation for the taking be increased, or in the alternative, that conditions be placed on the taking. To the extent that Defendant Thomas Barr, IV seeks to contest the taking, rather than just compensation, the United States seeks partial summary judgment on the issues of its right to condemn the 22.70 acres and the extent of the taking.

The fact that the motion is unopposed does not necessarily mean defendants should prevail on the merits. "A motion for summary judgment cannot be granted simply because there is no opposition, even if failure to oppose violated a local rule. The movant has the burden of establishing the absence of a genuine issue of material fact and, unless he has done so, the court may not grant the motion, regardless of whether any response was filed." *Hetzel v. Bethlehem Steel Corp.*, 50 F.3d 360, 362 (5th Cir. 1995)(citing *Hibernia Nat'l Bank v. Administracion Cent. Sociedad Anonima*, 776 F.2d 1277, 1279 (5th Cir.1985)). However, failure to file an opposition and statement of contested material facts requires the Court to deem

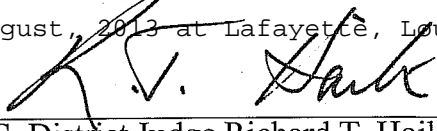
¹ Pursuant to Local Rule L.R. 7.5W, the deadline for filing any opposition to the government's motion was August 9, 2013. LR. 7.5.

defendants' statements of uncontested material facts admitted for purposes of the motion.

Local Rule, LR 56.2W.

Based on the undisputed facts of this matter, *R. 136-1*, and the Statement of Uncontested Facts, *R. 136-2*, the Court will grant the government's motion for partial summary judgment.

Thus done and signed this 20th day of August, 2013 at Lafayette, Louisiana.



U.S. District Judge Richard T. Haik, Sr.